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14 *Attorneys for Defendant Wal-Mart Associates, Inc.*

15 **UNITED STATES DISTRICT COURT**

16 **FOR THE DISTRICT OF NEVADA**

17 CHRISTOPHER NELSON, on behalf of  
18 himself and all others similarly situated,

19 Plaintiff,

20 vs.

21 WAL-MART ASSOCIATES, INC. and DOES  
22 1 through 50, inclusive,

23 Defendant(s).

24 Case No.:

25 [District Court Case No. 20-TRT 00004 1E]

26 **NOTICE OF REMOVAL OF ACTION  
27 PURSUANT TO 28 U.S.C. §§ 1331, 1367,  
28 AND 1441**

29 PLEASE TAKE NOTICE that Wal-Mart Associates, Inc. (“Defendant”), by and through  
30 undersigned counsel, hereby files this Notice of Removal of Action Pursuant to 28 U.S.C. §§ 1331,  
31 1367, and 1441 (“Notice”) of this case from the First Judicial District Court of the State of Nevada,  
32 in which it is now pending, to the United States District Court for the District of Nevada. The federal  
33 question jurisdiction of this Court is invoked under 28 U.S.C. § 1331 and supplemental jurisdiction  
34 over state law claims is invoked under 28 U.S.C. § 1367.

35 **I. State Court Action**

36 Plaintiff Christopher Nelson (“Plaintiff”) filed this action against Defendant in the First  
37 Judicial District Court of the State of Nevada on December 23, 2020, Case No. 20-TRT 00004 1E  
38 (the “State Court Action”). (See true and correct copies of the Plaintiff’s Collective and Class Action

1 Complaint against Defendant (“Complaint”) attached hereto as **Exhibit A** and Plaintiff’s Civil Cover  
 2 Sheet, attached hereto as **Exhibit B.**) A copy of the Summons and Complaint was served on the  
 3 registered agents for Defendant on December 31, 2020. (See a true and correct copy of the  
 4 Declaration of Service filed on January 20, 2021, attached hereto as **Exhibit C.**) To date, it does not  
 5 appear that the Summons been returned to the Court for docketing. (See as true and correct copy of  
 6 the Docket, attached hereto as **Exhibit D.**)

7 The State Court Action generally alleges that Defendant required Plaintiff and all warehouse  
 8 workers at Defendant’s food distribution warehouses in the “dry” and “cold” sections of the  
 9 warehouse to engage in various pre-shift work activities off the clock and without compensation.  
 10 (See generally, **Exhibit A.**) Thus, Plaintiff filed this suit alleging the following causes of action: (1)  
 11 failure to pay overtime wages in violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C.  
 12 §207; (2) failure to pay minimum wages in violation of the Nevada Constitution; (3) failure to pay  
 13 wages for all hours worked in violation of NRS 608.140 and 608.016; (4) failure to pay overtime  
 14 wages in violation of NRS 608.140 and 608.018; and (5) failure to timely pay all wages due and  
 15 owing upon termination pursuant to NRS 608.140 and 608.020-.050. (See *id.*)

16 **II. This Court Has Federal Question Jurisdiction Under 28 U.S.C. § 1331**

17 **A. Plaintiff’s Claims Assert a Federal Question**

18 Plaintiff’s First Cause of Action alleges violations of the FLSA; specifically, failure to pay  
 19 overtime wages in violation of the FLSA, 29 U.S.C. §207. (See Ex. A, ¶¶ 39-43.) The FLSA is a  
 20 federal law. Accordingly, Plaintiff’s Complaint presents federal question jurisdiction under 28  
 21 U.S.C. § 1331.

22 **B. This Court Has Supplemental Jurisdiction Over Plaintiff’s Remaining State  
 23 Law Claims Under 28 U.S.C. § 1337**

24 Plaintiff’s Complaint also alleges state law wage claims, including Defendants’ alleged  
 25 failure (i) to pay minimum wages in violation of the Nevada Constitution; (ii) to pay wages for all  
 26 hours worked in violation of NRS 608.140 and 608.016; (iii) to pay overtime wages in violation of  
 27 NRS 608.140 and 608.018; and (iv) to pay all wages due and owing upon termination pursuant to  
 28 NRS 608.140 and 608.020-.050. These state law claims arise from the same alleged occurrences

1 and/or common nucleus of operative facts that underlie Plaintiff's federal FLSA claims. The  
2 Complaint makes clear that each of Plaintiff's claims, including the state law claims, are related to  
3 allegations of Defendant's alleged failure to pay Plaintiff and other employees for pre-shift work  
4 performed off the clock. This Court, therefore, has supplemental jurisdiction over Plaintiff's  
5 remaining state law claims pursuant to 28 U.S.C. § 1337.

6 **III. This Removal Is Timely**

7 Plaintiff served Defendant on December 31, 2020. As this Notice is being filed on January  
8 29, 2021, less than 30 calendar days after the Complaint was served on Defendant, the removal is  
9 timely.

10 **IV. Requirements For Removal**

11 Defendant has met all other requirements for removal as follows:

12 A. Defendant attaches to this Notice as **Exhibits A through D**, copies of "all process,  
13 pleadings and orders" served upon it pursuant to 28 U.S.C. § 1446(a).

14 B. Defendant has also concurrently filed a copy of this Notice in the First Judicial  
15 District Court for the State of Nevada.

16 C. Defendant has served a copy of this Notice upon Plaintiff's counsel.

17 D. All named Defendants have been served and consent to the removal of Plaintiff's  
18 action.

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1 E. This Notice is executed pursuant to Federal Rule of Civil Procedure 11.

2 DATED this 29th day of January, 2021.

3 **OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.**

5 /s/ Dana B. Salmonson

6 Anthony L. Martin  
7 Nevada Bar No. 8177  
8 Dana B. Salmonson  
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Wells Fargo Tower  
Suite 1500  
3800 Howard Hughes Parkway  
Las Vegas, NV 89169

10 *Attorneys for Defendant Wal-Mart Associates, Inc.*

## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically transmitted the foregoing **NOTICE OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §§ 1331, 1367, AND 1441** to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant:

Mark R. Thierman  
Joshua D. Buck  
Leah L. Jones  
Joshua R. Hendrickson

Pursuant to FRCP 5(b), I hereby further certify that service of the foregoing document was also made by depositing a true and correct copy of same for mailing, first class mail, postage prepaid thereon, at Las Vegas, Nevada, to the following:

Mark R. Thierman  
Joshua D. Buck  
Leah L. Jones  
Joshua R. Hendrickson  
Thierman Buck LLP  
7287 Lakeside Drive  
Reno, NV 89511  
*Attorneys for Plaintiff*

DATED this 29th day of January, 2021.

/s/ *Carol Rojas*

**An Employee of OGLETREE, DEAKINS,  
NASH, SMOAK & STEWART, P.C.**